IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.40803 of 2008
CHABHI YADAV @ VIJENDRA YADAV
Versus
STATE OF BIHAR
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3. 5.12.2008 Heard Mr. A.P. Singh, learned counsel for the petitioner and Mr. K. Shankar, learned A.P.P and learned counsel for the informant.

The case is under section 302 of the Indian Penal Code and the allegation is that on account of previous enmity the petitioner and co-accused Hira Yadav picked up the son of the informant, took him to some field and shot him dead. The informant claimed learning about the incident from one Sheo Kumar Singh.

The contention is that in the whole of the case diary there is no eye witness to the incident and even Sheo Kumar does not say that he had seen the occurrence.

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Learned counsel for the informant has drawn attention of the Court to the fact that the statement of Sheo Kumar was not recorded for 8 months and the concerned Superintendent of Police was approached who directed to take some action and thereafter statement was recorded. But those were not true records of the statement before the investigating officer and , as such, witnesses filed a joint petition before the C.J.M., Ara, pointing out the dishonest recording of the statement of witnesses.

It is true that there was motive and the persons of the locality, who assembled there, named the petitioner, as appear in the F.I.R., who had killed the deceased. The trial court has to decide the fact.

The petition is dismissed.

(Dharnidhar Jha,J)

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